

(Working notes)

**TOWN OF ROCKY HILL
PLANNING AND ZONING COMMISSION
MEETING OF JUNE 4, 2014**

CALL TO ORDER

Chairman Desai called the Wednesday, June 4, 2014, meeting to order at 6:33 p.m. in the Town Council Room, Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Dimple Desai, Chairman
 Victor Zarrilli, Secretary
 Carmen D'Agostino, Commissioner
 Giuseppe Aglieco, Commissioner

Alternates: William O'Sullivan

Also: Kimberley A. Ricci, Dir. Planning & Building/Asst. ZEO

1. PUBLIC HEARINGS

A. Continued from May 21, 2014. Special Permit Application, Officina Cucina, proposing to sell alcoholic beverages under a Restaurant Liquor Permit with a Patio License also, for an already approved restaurant location at 2399 Main Street in a C-Commercial Zoning District, ID # 10-082;

The applicant was not present at this time.

A MOTION was made by Commissioner Zarrilli to recess the Public hearing for Special Permit Application, Officina Cucina, proposing to sell alcoholic beverages under a Restaurant Liquor Permit with a Patio License also, for an already approved restaurant location at 2399 Main Street in a C-Commercial Zoning District, ID # 10-082;

B. Resubdivision Application. Judith Bordieri, proposing to create one residential building lot of approximately 0.555 acres for property on the west side of Hayes Road from land now or formerly owned by The Estate of Anne Hayes in a R-20 Residential Zoning District; ID# 08-535

Mr. Jack Gilmartin with J&L Surveying, 212 Old Brick Yard lane, Berlin addressed the Commission representing the applicant. They are proposing a two lot subdivision. The parcel of land is on Hayes Road across the street from Pondside Lane and adjacent to the farm buildings. They want to cut out about a ½ acre lot out of the parcel in the south east corner of the property. The owner of the property passed away and left the property to the family, with the understanding that the Bodieri's would receive on lot. The owners are negotiating with the

Town of Rocky Hill to give the Town development rights for the rest of the land so it would not be developed. This is the only portion of the property that will ever be developed. The lot abuts Hayes Road and the farm to the north and is surrounded mostly by open space. The property is serviced by sewer and water. They are considering a house with a walk-out basement because of the grades on the site. The driveway will have a landing platform in order to allow the driver adequate site lines when exiting onto Hayes Road. The property naturally slopes to the back so there will be no runoff flowing onto the neighboring property after construction. Mr. Gilmartin noted that there is a guardrail in front of the site that will have to be cut back and re-anchored on both sides. The applicant is asking for a waiver of sidewalks. There are no sidewalks to connect to on either side of their property. There are sidewalks on the opposite side of the street. Even if the Hayes property is no longer farmed, there will never be any development on it and it will remain as open space.

Public Comment

Ms. Pauline Pelczar of 20 West Meadow Road addressed the Commission. She abuts the site where they are proposing to build a house and she is very concerned about the runoff flowing onto her property. Mr. Gilmartin said currently the parcel does drain towards the farm in the back and it will continue to do that. He pointed out that if this application is approved the owner would have to submit a plot plan for review by Staff. He also noted that by law, you cannot divert water onto an abutting property owners site.

Mr. Jay Smith of 7 Pondside Lane addressed the Commission. He is concerned about the location of the driveway because it is at the bottom of a hill and cars go flying over that hill at high speeds. He is concerned about safety as cars exiting the driveway. He said right now it can be difficult to exit Pondside Lane. He wonders if there are adequate site lines to allow cars to exit the driveway. Mr. Smith said he is happy to hear that this will not become a huge subdivision in the future.

Ms. Ricci said Staff received a letter from **Ms. Doreen Krupp of 7 Pondside Lane** also expressing the same concerns of Mr. Smith regarding traffic issues on Hayes Road. She is afraid this may be the beginning of a larger subdivision on the property and she stated that she is not in favor of this application. Mr. Gilmartin said there is enough distance to locate the driveway where they are proposing it. He pointed out that it would actually be higher than Pondside Lane and will therefore have better site lines.

Commissioner Comments/Questions

Commissioner D'Agostino asked about the elevation of the house. Mr. Gilmartin said the top of the foundation is 206.8 with another 9" added to reach the first floor. The house they are showing is just a conceptual plan right now. He thinks the best design would be to have a walk-out basement. Mrs. Ricci noted that a developer only needs to submit a conceptual layout for a subdivision or re-subdivision plan in order to show that it will work as a building lot.

Commissioner Zarrilli asked if they would be supply natural gas to the home. Mr. Gilmartin said the gas lines are in the road and he believes they would go with natural gas. Commissioner Zarrilli said the site is very wooded and he wondered if they would be clear cutting the trees. Mr. Gilmartin pointed out the areas that they would need to clear for site lines. They are not intending to clear cut the entire parcel, just what is necessary. The electric fence that crosses the property will have to be relocated behind the house. Commissioner Zarrilli was concerned about sidewalks. He said there is a problem along the north side of Hayes Road with gaps in the sidewalks and he wonders what they can do to bridge these gaps. Mrs. Ricci said this application is just for the one lot they are creating and the Commission can only address the sidewalks for that individual lot. The Planning and Zoning Commission can pass along their concerns about the lack of sidewalks on the rest of the property to the Town Council. Commissioner Zarrilli asked why they chose to have the lot on this side of the property instead of the Trinity Ridge side. Mr. Gilmartin said there isn't room on that side because there are wetlands in that area.

Commissioner Aglieco asked why they are keeping the guardrail going north of the apron. Mr. Gilmartin said the guardrail is in the public right of way so they cannot take it down. They only have the right to open it up for a driveway. It would be up to the Town to decide if they want to take it down. Commissioner Aglieco asked if they could move the driveway apron north closer to the property line. Mr. Gilmartin said it could go further down to the north but he is trying to minimize the grading that needs to be done on the site.

Chairman Desai questions the grades shown on the plans. Mr. Gilmartin said the plans are not showing the grades of a full walkout. Chairman Desai said he is concerned about the grades and how they will affect the water flow onto the neighboring property. Mr. Gilmartin said the Commission could add a condition to the approval that the design of the house must be a full walkout. He again stated that by law they cannot create a development that defers water onto an abutting property. Right now the grades are shown for a typical house with a basement underground. If they were to change to a full walkout the grades would change. Chairman Desai said he would also like to see sidewalks along the entire lot. Mrs. Ricci said this approval is only for this one residential building lot and the rest of the lot is not part of the application. She said she will pass the concerns about sidewalks along to the Town Council.

A MOTION was made by Commissioner Zarrilli to close the public hearing for Resubdivision Application. Judith Bordieri, proposing to create one residential building lot of approximately 0.555 acres for property on the west side of Hayes Road from land now or formerly owned by The Estate of Anne Hayes in a R-20 Residential Zoning District. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.

C. Continued from May 21, 2014, Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to add to the Rocky Hill Zoning Regulations, Section 3.4.8 as follows:

3.4.8 A single temporary structure, including membrane structures, no larger than 200 sq. ft. will be allowed on a Residentially Zoned Property for no more than 6 months in any 12 month period. Temporary structure permits shall be obtained from the Planning and Zoning Department. Section 3.4.8 is not applicable to farms, either existing as of the effective date of this Regulation and/or possible future farms as defined by the Zoning Regulations.

Mrs. Ricci said at the last public hearing the Commission asked about a definition of a temporary structure as far as time on site. She pointed out that this regulations change does not affect farms.

Commissioner Aglieco asked about the definition of a “single temporary structure”. Mrs. Ricci said the “temporary” part refers to the time being on site and an example would be a pod unit being used for people who are moving. A permit would be needed and the unit would be allowed for 6 months. If needed, they could apply for an extension.

Commissioner Zarrilli asked for clarification on how temporary structures of different sizes would be handled. Mrs. Ricci said this Regulations would not apply to any temporary structure *201 sq. ft. or more*. That size structure would need a building permit.

Commissioner O’Sullivan said the wording that excludes farms is not clear enough as to whether or not a farm could have a temporary structure for 6 months without it being permitted or whether they were not allowed to have a temporary structure at all. Mrs. Ricci said they would need to clarify the wording before they could vote on this change.

Public Comment

Ms. Marianne Mattway of 91 Brook Street asked for clarification of this regulation change. She and her husband want to put up a structure of 425 sq. ft. to cover their motor home and she wondered regulation applied to her. Mrs. Ricci said this regulation does not apply to her because the structure is larger than 200 sq. ft. They would need to get a permit from the Building Department.

Mrs. Ricci suggested recessing the public hearing until the next meeting so Staff could work on the rewording of the change. The Town would request an extension.

A MOTION was made by Commissioner Zarrilli to recess the public hearing for Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to add to the Rocky Hill Zoning Regulations, Section 3.4.8 as follows:

3.4.8 A single temporary structure, including membrane structures, no larger than 200 sq. ft. will be allowed on a Residentially Zoned Property for no more than 6 months in any 12 month period. Temporary structure permits shall be obtained from the Planning and Zoning Department. Section 3.4.8 is not applicable to farms, either existing

Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.

A. Continued from May 21, 2014. Special Permit Application, Officina Cucina, proposing to sell alcoholic beverages under a Restaurant Liquor Permit with a Patio License also, for an already approved restaurant location at 2399 Main Street in a C-Commercial Zoning District, ID # 10-082;

Mr. Joseph Dural addressed the Commission representing the applicant and handed in his proof of notification of abutters. This application was originally approved in 2008 for a restaurant use but at the time they did not get the required special use permit to serve alcohol. They are here tonight to get the Special Permit so they can apply for a State Liquor License. This will be an Italian restaurant with an outside patio.

Public Comment

Ms. Krista Mariner of 58 Farms Village Road addressed the Commission. She asked about the hours and size of the outdoor patio. She wondered if Section 7.6.B would apply to this location, as it is in close proximity to a church. Mrs. Ricci said that Section 7.6.1 of the Regulations is talking about a retail sale of beverages, and Section 7.6.2 specifically states that the previous regulations does not apply to restaurants provided a special permit is issued by this Commission. Mr. Dural said the patio is about 40'x18' and will be primarily used for table service. Their hours of operation are not finalized yet but they are allowed by law to stay open until 1 or 2 a.m.

Mr. Jim Zagroba of 263 Meadow Road addressed the Commission. He is concerned about the possibility of issues with people drinking too much at this location. He said the plan that is being presented tonight is vague. There has been no mention of whether there will be music and the location of the dumpsters. Mr. Dural said the dumpsters are already on the property in an enclosed area. He said the Fire Marshall has been on site for multiple inspections. He said the Liquor Commission is much more involved in oversight once the permit is granted.

Commissioner Comment/Questions

Commissioner Zarrilli asked about the access to the patio. Mr. Dural said State law requires them to restrict access to the patio from the bar area if alcohol is being served. The surrounding fence will probably have a gate. The patio will have handicap access.

Chairman Desai asked if they would have music. Mr. Dural said they would, but it would only be typical background music, not live entertainment.

Commissioner Aglieco asked if they would allow people to bring in their own alcohol if they did not get the liquor permit. Mr. Dural said do not want to do that. Even if the customers bring in their own liquor, the restaurant is still responsible for anyone drinking on the premises.

A MOTION was made by Commissioner Zarrilli to close the public hearing for Special Permit Application, Officina Cucina, proposing to sell alcoholic beverages under a Restaurant Liquor Permit with a Patio License also, for an already approved restaurant location at 2399 Main Street in a C-Commercial Zoning District. Seconded by Commissioner O’Sullivan. All were in favor, MOTION CARRIED UNANIMOUSLY.

2. CALL SPECIAL MEETING TO ORDER

Chairman Desai called the special meeting to order.

3. PUBLIC

Ms. Krista Mariner of 58 Farms Village Road addressed the Commission to talk about the bids received for the update of the Town’s Plan of Conservation and Development. She asked the Commission to support the bid from Planimetrics due to their experience. They helped write the Town’s 2001 Plan of Conservation and Development and the revised 2006 Zoning Regulations so they are already very familiar with Rocky Hill.

Mr. Tom Cardini of 10 Dogwood Court addressed the Commission regarding the June 18th public hearing scheduled for Elm Street Extension Appeal. Mrs. Ricci said that issue is in pending litigation and the Planning and Zoning Commission is being advised by the Town Attorney in that matter. Public comment will be accepted at that time. Mr. Cardini asked that the Commission push back the public hearing to their July meeting to allow the residents at the Ridge at Elm more time to prepare for the meeting. Mrs. Ricci noted that although the public hearing begins on that day, it may be continued until the next month on the discretion of the Commission.

Mr. Barry Goldberg, of Regulatory Land Use Consultants addressed the Commission and read a letter he wrote regarding the recent decision made for the agenda item dealing with multi-family/special permit/site plan modification for Town Center West. He said he believes the decision defies zoning logic. He said at the meeting he provided information about the history and intent of the Regulations. He pointed out that the Regulations do not include multi-family use so there are no applicable standards for that use. He feels the Commissioners were vague when stating that the application complied with Regulations and therefore the decision was “arbitrary and capricious”.

At that meeting many comments were made about traffic concerns yet Mr. Goldberg said it is difficult to understand how the Planning and Zoning Commission made their decision without even reading the Traffic Study that was just given to them at that meeting. Not one of the Commissioners read the Traffic Study. He said he doesn’t think all the Commission understand their responsibility to protect the Town and due their due diligence when considering an application. The Traffic Study should be reviewed whether the roads are State or Town owned.

Mr. Goldberg feels this Commission has let the citizens of Rocky Hill down. The citizens have voiced their opinions against multi-family uses and it was eliminated from the Zoning Maps. He

is concerned about future decisions of the commission involving multi-family uses. He suggested the Commission add this the topic of multi-family use to the addenda and allow the public to comment on it.

Mr. Goldberg claimed three of the Commissioner's who voted in favor of the Town Center West application went into the room behind the Commissioner's table to "conduct a short secret meeting" during the recess of the meeting. He believes this constitutes a "quorum" and should be considered "illegal conduct". He believes a case can be made that this Commission had a predetermined and prejudicial belief that this application would be approved regardless of what was presented at the public hearing. He believes a member of the Commission new the decision was arbitrary and capricious and said nothing. He asked that any Commissioner disputing these comments, be specific using case law.

4. AGENDA ITEMS

A. Special Permit Application, Officina Cucina, proposing to sell alcoholic beverages under a Restaurant Liquor Permit with a Patio License also, for an already approved restaurant location at 2399 Main Street in a C-Commercial Zoning District, ID # 10-082;

A MOTION was made by Commissioner O'Sullivan to approve the Special Permit Application, Officina Cucina, proposing to sell alcoholic beverages under a Restaurant Liquor Permit with a Patio License also, for an already approved restaurant location at 2399 Main Street in a C-Commercial Zoning District. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.

B. Resubdivision Application. Judith Bordieri, proposing to create one residential building lot of approximately 0.555 acres for property on the west side of Hayes Road from land now or formerly owned by The Estate of Anne Hayes in a R-20 Residential Zoning District; ID# 08-535

A MOTION was made by Commissioner Aglieco to approve the Resubdivision Application. Judith Bordieri, proposing to create one residential building lot of approximately 0.555 acres for property on the west side of Hayes Road from land now or formerly owned by The Estate of Anne Hayes in a R-20 Residential Zoning District. Seconded by Commissioner O'Sullivan. Commissioner Zarrilli was concerned about how to address the sidewalks. He wanted to make sure the Town Council was aware of the Commission's concerns when discussing the development rights with the owner for the other portion of the property. All were in favor, MOTION CARRIED UNANIMOUSLY.

A FRIENDLY AMENDMENT was made by Commissioner Zarrilli to allow a waiver of the sidewalks for the Resubdivision Application. Judith Bordieri, and to require that in lieu of the sidewalks the Town Engineer determine the amount of cash to be donated by the owner to the Town's Sidewalk Fund. Mrs. Ricci said the Commission can advise the Town Council about the Planning and Zoning Commission's concerns about sidewalks for the balance of the

property specifically where there are gaps on both sides of Hayes Road. **FRIENDLY AMENDMENT ACCEPTED.**

A FRIENDLY AMENDMENT was made by Commissioner Zarrilli that the original motion includes all staff comments. FRIENDLY AMENDMENT ACCEPTED.

C. Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to add to the Rocky Hill Zoning Regulations, Section 3.4.8 as follows:

3.4.8 A single temporary structure, including membrane structures, no larger than 200 sq. ft. will be allowed on a Residentially Zoned Property for no more than 6 months in any 12 month period. Temporary structure permits shall be obtained from the Planning and Zoning Department. Section 3.4.8 is not applicable to farms, either existing as of the effective date of this Regulation and/or possible future farms as defined by the Zoning Regulations.

This public hearing was recessed.

5. ANY OTHER BUSINESS

A. Status Update and Recommendation to Town Council - Plan of Conservation and Development

Mrs. Ricci said the Town has \$50,000 available to use towards the Plan of Conservation and Development (POCD) update. Planimetrics was asked to put together a proposal, since they were the ones that helped create the 2001 POCD. The Town received only one other quote. This update must be completed before July 1, 2015. Mrs. Ricci said the Planimetric's bid came in at \$50,000 with a completion date of May 1, 2015. She said they have vast experience in developing these Plans and they are also familiar with the Town of Rocky Hill. The second bid was received from CME Associates at a cost of \$44,500 and a completion date beyond July 1, 2015. CME's primary focus is on architectural construction services and engineering. Mrs. Ricci said she believes Planimetrics would be the better choice due to their experience in this field and previous experience with the Town of Rocky Hill. Also, she noted, the timing is critical.

A MOTION was made by Commissioner Zarrilli to approve the Planimetrics as the preferred company for the update of the Plan of Conservation and Development for the Town of Rocky Hill. Seconded by Commissioner D'Agostino. Commissioner Zarrilli said Planimetrics is already familiar with the Town and it's POCD and they have indicated that they can work within the time constraints. The Commissioners all agreed with the decision to recommend Planimetrics for the reasons stated. All were in favor, MOTION CARRIED UNANIMOUSLY.

6. ADJOURN

A MOTION was made by Commissioner Zarrilli to adjourn the meeting. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.

Meeting adjourned at 8:22 p.m.

Respectfully submitted,

Eileen A. Knapp
Recording Secretary